

**COMMISSION MEETING**

**AUGUST 4, 1986**

The following persons attended U.S. Sentencing Commission Meeting  
August 4, 1986

Commissioners

Chairman William W. Wilkins, Jr.  
Commissioner Michael Block  
Judge Stephen Breyer  
Commissioner Helen Corrothers  
Commissioner Ronald Gainer  
Judge George E. MacKinnon  
Commissioner Ilene H. Nagel

Staff

Denis J. Hauptly, General Counsel  
Kay A. Knapp, Staff Director  
Bill Rhodes, Research Director  
Suzanne Conlon, Deputy General Counsel  
David Tevelin, Deputy General Counsel  
Mary Ellen Abrecht, Deputy General Counsel  
David Lombardero, Special Counsel  
Peter Hoffman, Senior Research Associate  
Alan Chaset, Parole Commission Representative  
Susan Hayes, Associate General Counsel  
Paul Martin, Communications Director  
Elizabeth H. Williams, Assistant Staff Director  
Janet Fitzpatrick, Librarian

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Chairman Wilkins called the meeting to order. It was decided that the same general format that had been used for the U.S. Attorneys working group meeting would be used for the State District Attorneys meeting on August 5. The Chairman suggested that a group of U.S. Attorneys be asked to help the Commission define levels of cooperation. It was agreed that their input would be valuable.

The Chairman noted that there were two schools of thought with respect to the imposition of fines as organizational sanctions. One approach is to determine the amount of fine by totaling the assets of the corporation. Another approach is to fix the fine according to the amount of gain by the offender. The Chairman proposed that each approach be presented to the public for comment. The Commission agreed that presenting two approaches for public comment was a good idea. The Chairman further proposed that a decision on fines for individuals also be deferred. It was noted that the issue of fines for individuals differs from fines for organizations since the range of wealth is narrower and prison is an available alternative. The point was also made that if no specific method is given for individual fines, the public may perceive only the imprisonment aspect of the guidelines system, which would not provide a complete picture. The allocation of sanction units among sentencing options was also discussed. It was suggested that it might be better to provide the judge with considerable discretion in the determination of sanction unit allocation.

The area of civil rights was discussed. On the face of the issue, the core harm is deprivation of a civil right, yet the offense is often accompanied by other more serious harms. The range of conduct is often quite broad in this area and there are many technical areas within civil rights violations which border on regulatory offenses. It was suggested that sentences for civil rights violations might be differentiated depending on whether the offender was a member of law enforcement. One possibility mentioned was to include a policy statement stating that the judge must sentence at the top of the 25% range. Other possibilities would be to increase the harm value for the offense if perpetrated by a member of law enforcement or to provide for aggravation outside of the guidelines. The transportation of strikebreakers is included in the civil rights section on employment. There are few instances of prosecution for this offense.

The political rights section covers obstructing registration and elections including voter fraud, forgery and deceit, bribery, soliciting money for voting a certain way, and falsifying registration documents. One of the key issues in voter fraud is the number of votes compromised in the effort. It is a complicated issue because most incidents of voter fraud occur on a precinct by precinct basis, with each incident involving relatively few votes, but which can add up to a significant impact on an election. Related issues which were briefly discussed included eavesdropping, trafficking in eavesdropping

devices, and revealing private information for a government purpose, such as insider trading of agricultural information. In terms of the latter type of offense, it was suggested that the sentence be based on economic gain rather than harm, and adding in political gain if that were deemed necessary, with a cross reference to obstruction of justice.

The Commission turned to a discussion of atomic energy offenses. There are relatively few prosecutions for these types of offenses and most of the offenses carry low statutory maxima. Most prosecutions involving atomic energy plants are for trespassing. Some of the offenses might better be included in regulatory offense sections. Possible aggravating factors that were discussed included U.S. citizenship and whether the country was at war at the time of the offense. It was decided that neither aggravating factor was appropriate. Several sections dealing with nuclear materials (sections 613, 615, 617) were deemed to be more appropriate in the espionage section than the atomic energy section. Sections 614 and 618 were moved to the sabotage section.

The meeting was adjourned.